



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

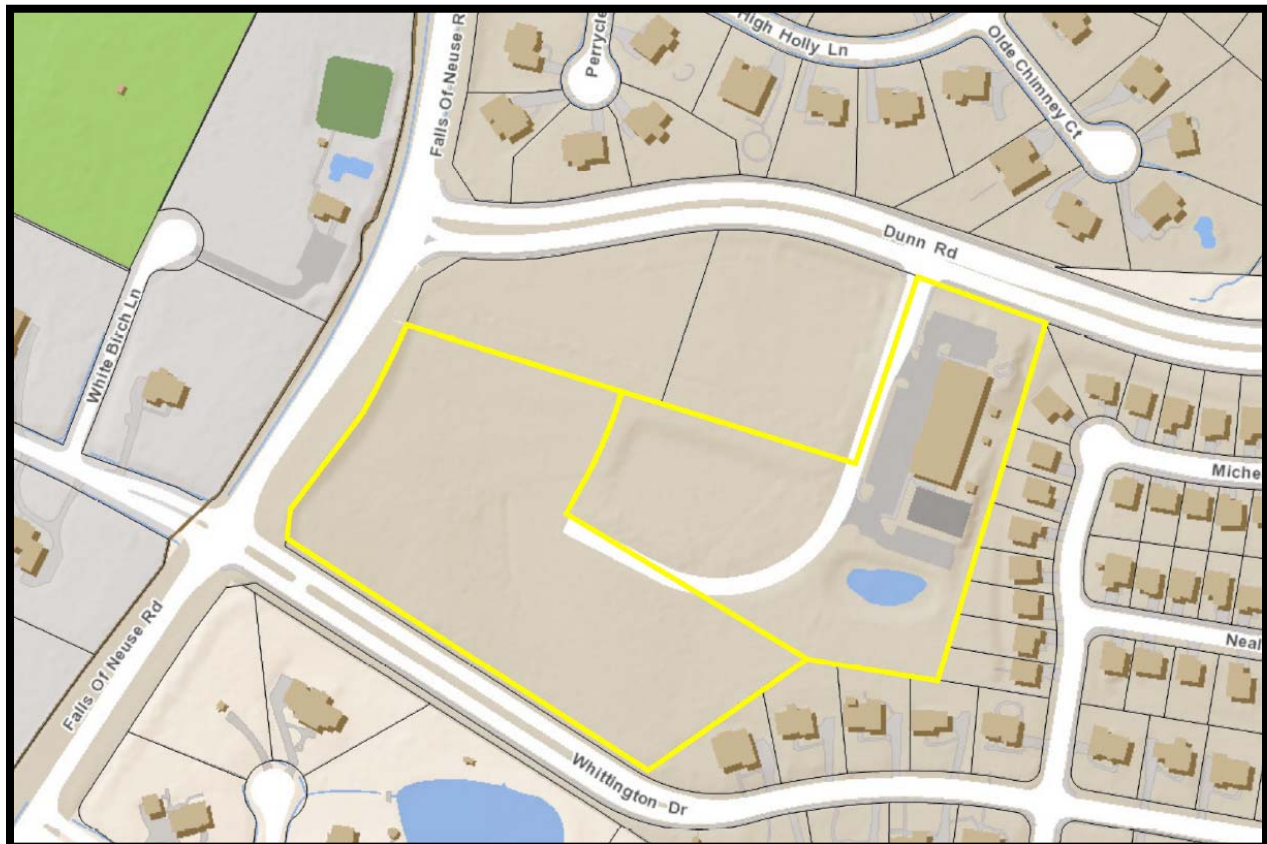
Case File: A-50-17

Property Address: 11110 Falls of Neuse Road & a portion of 1590 Dunn Road

Property Owner: Falls Office Partners, LLC & Dunn Investments, LLC

Project Contact: Isabel Mattox

Nature of Case: A request for a variance to Section 9.1.9.A. of the Unified Development Ordinance to reduce the forestation requirement area for the Urban Watershed Protection Overlay District down from 40% to 32.5% of the site as well as a variance to Section 9.1.9.A.1. of the Unified Development Ordinance to reduce the minimum contiguous gross land area for qualifying forestation areas from 1/5 of the required forestation area (.79 acres) to 1/11 of the required forestation area (0.37 acres) on a 9.79 acre property zoned Office Mixed-Use-4-Conditional Use and Urban Watershed Protection Overlay District and located at 11110 Falls of Neuse Road and a portion of 1590 Dunn Road.



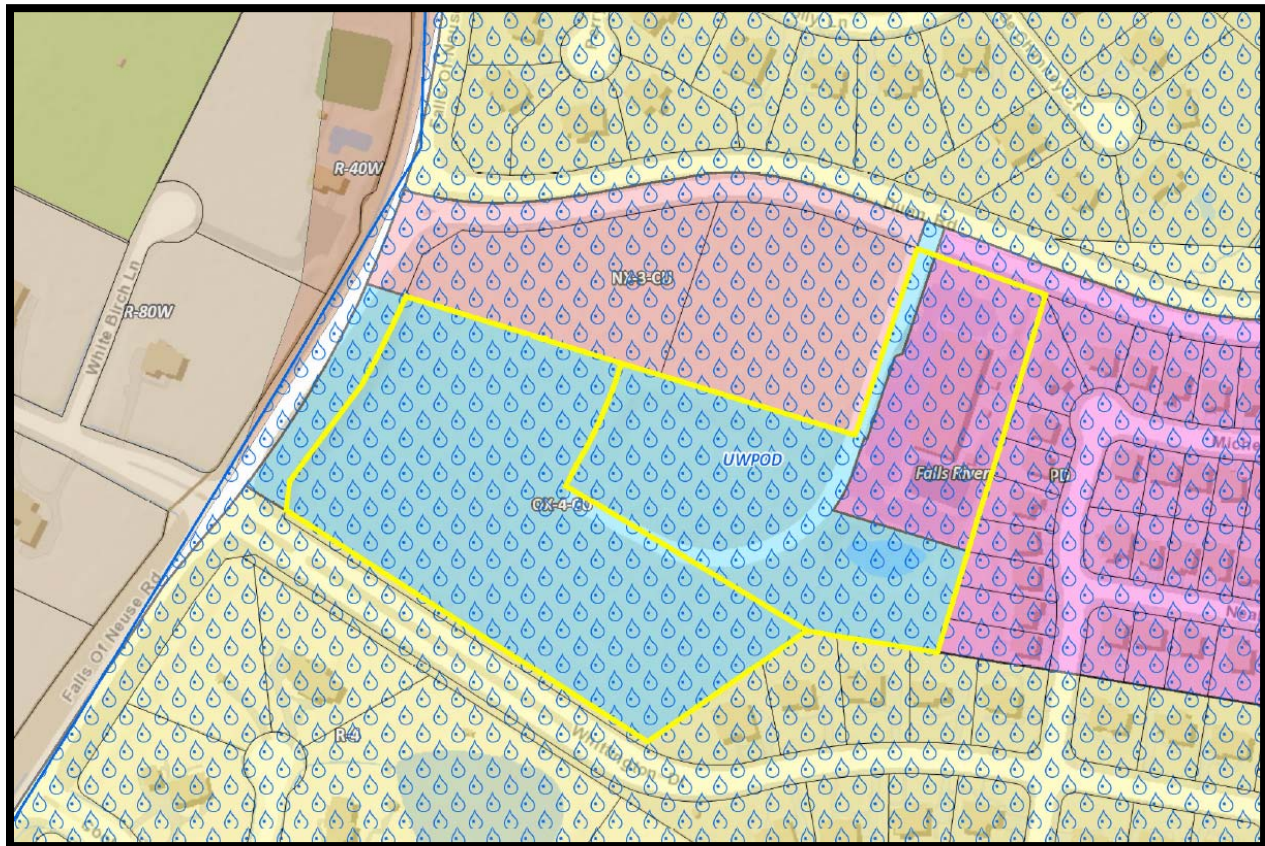
11110 Falls of Neuse Road & a portion of 1590 Dunn Road – Location Map

To BOA: 4-10-17

Staff Coordinator: Eric S. Hodge, AICP

ZONING

DISTRICTS: Office Mixed-Use-4 Conditional Use and Urban Watershed Protection Overlay District



11110 Falls of Neuse Road & a portion of 1590 Dunn Road – Zoning Map

Z-19-16 – Falls of Neuse Road, east side, south of Dunn Road, being Wake County PINs 1729212644, 1729214636 (in part), approximately 9.79 acres rezoned to Office Mixed Use – 4 stories – Conditional Use with Urban Watershed Protection Overlay District (OX-4-CU w/UWPOD). Conditions dated: September 22, 2016

1. The use of the property shall be limited to a Congregate Care facility for independent living restricted to people 62 years of age and older, their spouses, surviving spouses, and resident staff personnel.
2. Building height shall be limited to 4 stories and 55 feet, measured in accordance with UDO Section 1.5.7.
3. Subject to City Council approval, the maximum block perimeter standards in UDO Section 8.3.2, the open access, connectivity and stub street standards in UDO Section 8.3.4, and the cross access

requirements in UDO Section 8.3.5 shall be modified such that a maximum block perimeter of 4,900 feet shall be permitted; a maximum stub street of 900 feet shall be permitted; and additional cross access to adjoining parcels under UDO Section 8.3.5 shall not be required. A public easement providing for pedestrian access of at least six (6) feet in width from Falls of Neuse Road to Dunn Road and directly connecting to the principal building's primary entrance shall be recorded with the Wake County Register of Deeds prior to the earlier of (i) the issuance of a building permit for any building on the property or (ii) the sale of any lot within the property which does not result in the immediate recombination of all parcels of the property into a single recombined lot.

4. Residential density shall not exceed an aggregate of 190 dwelling units and/or rooming units.

5. Principal building(s) on the property shall be located at least 100 feet away from the adjacent R-4 zoned residential properties (which may overlap the Neighborhood Transition requirements set forth in UDO Article 3.5) as follows: Morrison (PIN 1729310515; DB 10018 P 1596); Majors (PIN 1729310409; DB 10116 P 2481); Naville (PIN 1729219494; DB 10649 P 1825); Craig (PIN 1729219308; DB 11363 P 1873); Dudley 1729217490; DB 15560 P 701); Strickland (PIN 1729216490 DB 15358 P 530); Reid (PIN 1729215374 DB 11475 P 1882), provided that as to the 11.5-foot wide strip of property running along Whittington Drive as part of the Reid property, (PIN 1729215374; DB 11475 P 1882), only the Neighborhood Transition requirements shall apply, understanding the latter may partially overlap with the conditioned 100-foot setback on the remaining portion of the Reid property.

6. Poles for parking lot light fixtures located more than 50 feet away from residential zoning districts shall not exceed 20 feet in height. All lighting fixtures on site shall be full cutoff fixtures.

7. An undisturbed Tree Conservation Area (TCA) having an average width of at least 55 feet shall be preserved where the property adjoins the Falls of Neuse Road. Such TCA is subject to any build-to requirements under the UDO, existing cross-access easements or rights, utility easements and rights, and pedestrian access connections required by the UDO and these zoning conditions.

8. A 15' x 20' transit easement on Falls of Neuse Road shall be provided to the City prior to the issuance of a building permit for the property. The property owner shall install an ADA-accessible transit shelter within the transit easement per the specifications below provided the property owner receives written notice to build the shelter from the City of Raleigh Department of Transportation within ninety (90) days after the issuance of a building permit. Provided the property owner receives such written notice within the required timeframe, the ADA-accessible transit shelter shall be completed prior to the issuance of any certificate of occupancy for the property with the following improvements: • one 15' x 20' cement pad, • one 30' long cement landing zone parallel to the street between the sidewalk and the back of the curb, • one sleeve for the installation of a 2-inch x 2-inch post, • one bench, and • one litter container.

9. Any exposed site retaining wall facing toward Whittington Drive, between the building(s) and the southern property boundary, shall be constructed of concrete, masonry or segmental block units. This wall face will be clad or manufactured with a textured masonry veneer surface. Unit sizes and color(s) will be compatible with and complementary to the material palette selected for the principal building(s).

10. At least eighty percent of all exterior building elevations (exclusive of windows, doors, trim, roof and railings) shall be comprised of a combination of stone (manufactured or natural), brick, wood and/or cementitious fiberboard such as HardiePlank.

VARIANCE STANDARDS: In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

To Legalize the Existing Structure:

1. **Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.**

2. **The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.**
3. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**
4. **The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.**

Sec. 9.1.9 Watershed Protection Overlay Districts

A. Except as otherwise provided below, every lot located within a -UWPOD, -FWPOD or -SWPOD must provide and maintain an area set aside for trees equal to at least 40% of the lot area. Within this area, trees must either be preserved or planted in accordance with the following:

1. Tree areas may be 1 contiguous area or scattered areas throughout the lot, but no required tree area may be less than 1/5 of the total gross land area required to be set aside for trees;
2. All areas required to be set aside for trees shall be maintained as wooded areas;
3. Wooded areas may consist of either areas where active tree preservation is observed or tree planting areas;
4. Each active tree preservation area must contain a minimum of 2 inches of tree caliper per every 100 square feet and within such areas, active tree preservation shall be followed;
5. Areas that are set aside for trees that do not meet the standards for active tree protection areas must be planted with shade trees; and
6. The minimum size and planting rate of new tree plantings used to fulfill this requirement shall be either 1 bare-root seedling at least 14 inches tall planted per 100 square feet (10 feet by 10 feet centers) or one 2-inch caliper tree planted per 200 square feet.

B. After wooded areas have been determined and prior to or concurrent to any subdividing of the property or issuance of building permit, the landowner shall record with the local County Register of Deeds a plat with metes and bounds descriptions of all wooded areas.

C. For lots located within areas designated "New Urban" by the Swift Creek Land Management Plan, the regulations of Sec. 9.1.9.A. above apply with the exception that only 25% of each lot must contain an area set aside for trees.

D. For lots located within a conservation development, areas set aside for trees may in lieu of being situated on the individual dwelling lots may instead be located within the required open space, provided that the overall acreage set aside for trees is not diminished.

E. The requirements of this section do not apply to lots devoted exclusively to stormwater control measures or to those lots located in those areas of the Comprehensive Plan designated for impervious surfaces in excess of 30%.

Application for Variance



RALEIGH
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
<p>Nature of variance request (If more space is needed, submit addendum on separate sheet):</p> <p>Applicants request a variance under 9.1.9.A and 9.1.9.A(1) to modify forestation requirements as to the entire proposed recombined area of 9.79 acres, as set forth on Exhibit A.</p>	<p>Transaction Number</p> <p>A-50-17</p>
<p>Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.</p>	

GENERAL INFORMATION		
Property Address 11110 Falls of Neuse Rd. & a portion of 1590 Dunn Road		Date March __, 2017
Property PIN 1729212644; 1729214636	Current Zoning OX-4-CU	
Nearest Intersection Falls of Neuse Rd. and Dunn Rd.		Property size (in acres) 9.79 acres
Property Owner Falls Office Partners LLC; Dunn Investments LLC	Phone	Fax
Owner's Mailing Address		Email
Project Contact Person Isabel Worthy Mattox	Phone 919-828-7171	Fax 919-831-1205
Contact Person's Mailing Address PO Box 946, Raleigh NC 27602		Email isabel@mattoxfirm.com
Property Owner Signature ^{DUNN INVESTMENTS LLC} By: <i>[Signature]</i>		Email
Notary Sworn and subscribed before me this <u>8th</u> day of <u>March</u> , 20 <u>17</u>		Notary Signature and Seal <i>Linda M Rich</i> <div style="border: 1px solid black; padding: 5px; text-align: center;"> LINDA M RICH NOTARY PUBLIC WAKE COUNTY, NC </div> My Commission Expires 4-21-2021

Application for Variance



RALEIGH
DEPARTMENT OF
CITY PLANNING



Department of City Planning | 1 Exchange Plaza, Suite 300 Raleigh, NC 27601 919-996-2626

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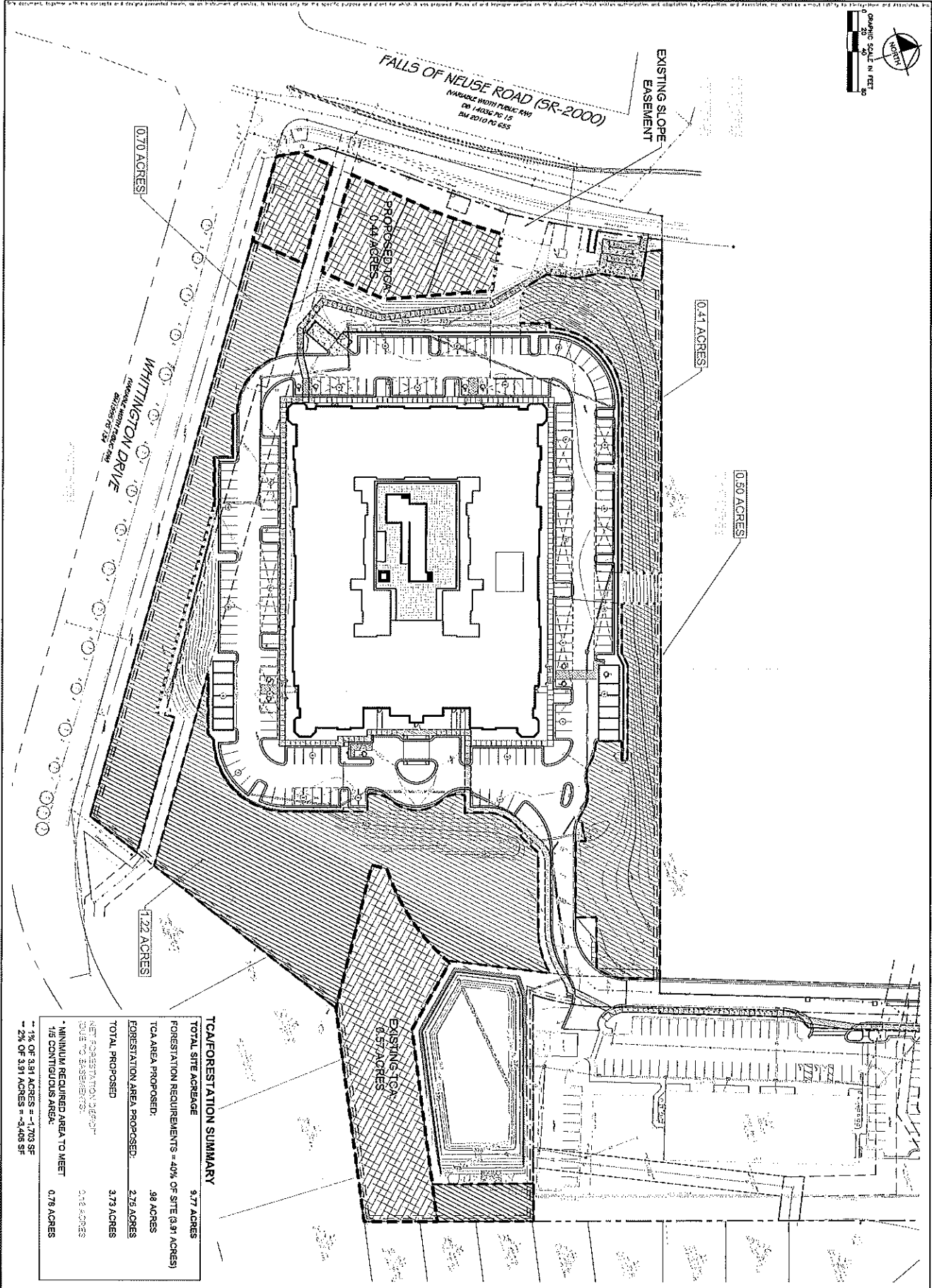
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Owner's Mailing Address	Email	
Project Contact Person Isabel Worthy Mattox	Phone 919-828-7171	Fax 919-831-1205
Contact Person's Mailing Address PO Box 946, Raleigh NC 27602	Email isabel@mattoxfirm.com	
<p>Property Owner Signature FALLS OFFICE PARTNERS LLC By: <i>Frank Moody</i></p>	Email <i>Frank.moody@LBmnc.net</i>	
<p>Notary</p> <p>Sworn and subscribed before me this <u>7th</u> day of <u>March</u>, 20<u>17</u></p>	<p>Notary Signature and Seal</p> <p><i>Tonya Row</i></p> <div style="border: 2px solid black; padding: 5px; text-align: center;"> <p>TONYA ROW NOTARY PUBLIC JOHNSTON COUNTY STATE OF NORTH CAROLINA MY COMMISSION EXPIRES 09-22-2018</p> </div>	

EXHIBIT A
Variance Application
11110 Falls of Neuse Road and
1590 Dunn Road
Falls Office Partners LLC and
Dunn Investments LLC

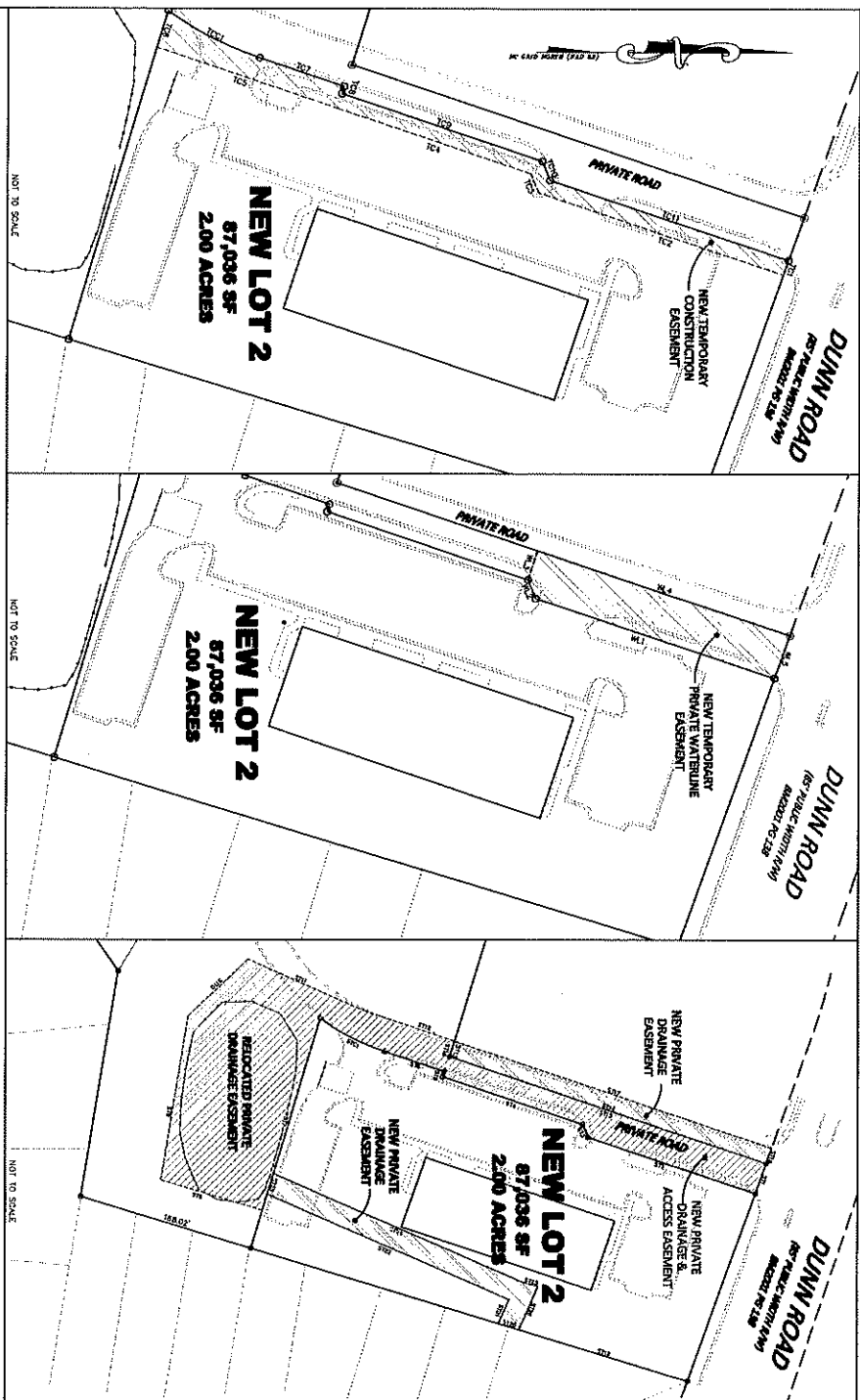
- (A) A variance is requested to section 9.1.9.A of the UDO which modifies the percentage requirement for forestation areas in an Urban Watershed Protection Overlay District from 40% of the site area to thirty-two and one-half (32.5%) percent of the site area.
- (B) A variance is requested to section 9.1.9.A.1 of the UDO to modify the minimum gross land area for forestation areas from 1/5 of the total site area to at least 0.37 acres.

The variance requests are based on the following hardship circumstances:

1. Presence of several easements on site including: (a) 30' wide Cross Access Easement; (b) 20' wide City of Raleigh Sanitary Sewer Easement; (c) 6' wide Pedestrian Access Easement; and (d) Duke Power easement. These break-up required contiguity and decrease potential forestation areas.
2. Difficult topographic conditions which require multiple retaining walls for site development, reducing land area available for forestation.



TCA/FORESTATION SUMMARY	
TOTAL SITE ACREAGE	9.77 ACRES
FORESTATION REQUIREMENTS = 40% OF SITE (3.91 ACRES)	
TCA AREA PROPOSED:	.98 ACRES
FORESTATION AREA PROPOSED:	2.75 ACRES
TOTAL PROPOSED	3.73 ACRES
100% FORESTATION REQUIRED 100% TCA FORESTATION	
* MINIMUM REQUIRED AREA TO MEET 1/3 CONTIGUOUS ACRE:	0.79 ACRES
- 1% OF 3.91 ACRES = .1,703 SF	
- 2% OF 3.91 ACRES = .3,406 SF	



LINE	LENGTH	RADIUS	DETA	INCHES	BEARING	CHORD
101	68.00	223.00	178.57	36.28	N72.54 E	67.74
102	169.24	518.41 W				
103	11.37	587.28 W				
104	13.24	518.41 W				
105	25.24	473.08 W				
106	58.73	18.41 E				
107	3.06	572.44 E				
108	13.29	167.28 E				
109	164.80	187.41 E				

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102	169.24	518.41 W				
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106	58.73	18.41 E				
107	3.06	572.44 E				
108	13.29	167.28 E				
109	164.80	187.41 E				

STORMWATER EASEMENT TABLE						
LINE	LENGTH	RADIUS	DETA	INCHES	BEARING	CHORD
5126	68.51	227.91	178.54	36.29	N72.54 E	68.53
STORMWATER LINE TABLE						
LINE	LENGTH	BEARING				
S17	79.97	S20.61 E				
S18	11.37	S88.50 E				
S19	11.37	S88.50 E				
S16	13.48	N22.54 W				
S15	15.16	N22.54 W				
S12	16.48	S88.50 E				
S10	16.48	S88.50 E				
S16	39.92	S16.32 W				
S19	15.16	N60.36 E				
S18	16.00	N21.27 W				
S17	11.37	N88.50 E				
S12	69.06	N88.50 E				
S13	15.16	S72.51 E				
S14	11.25	N18.33 E				
S15	12.55	N18.33 E				
S16	15.16	N22.51 E				
S17	11.22	N18.50 E				
S18	13.44	S20.3 E				
S19	15.16	S20.3 E				
S20	26.45	S16.31 W				
S21	34.45	N64.1 E				
S22	24.53	S22.35 E				
S23	23.11	N13.99 E				
S24	11.37	N88.50 E				
S25	14.73	N15.32 E				
S26	44.16	S64.1 E				

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1. CITIZENSHIP

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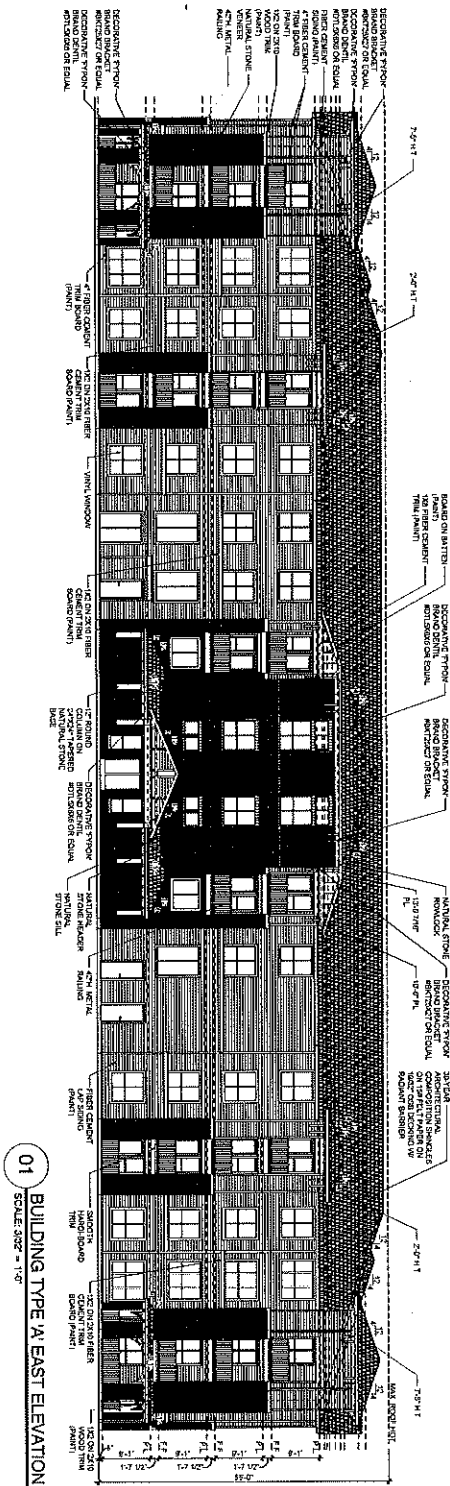


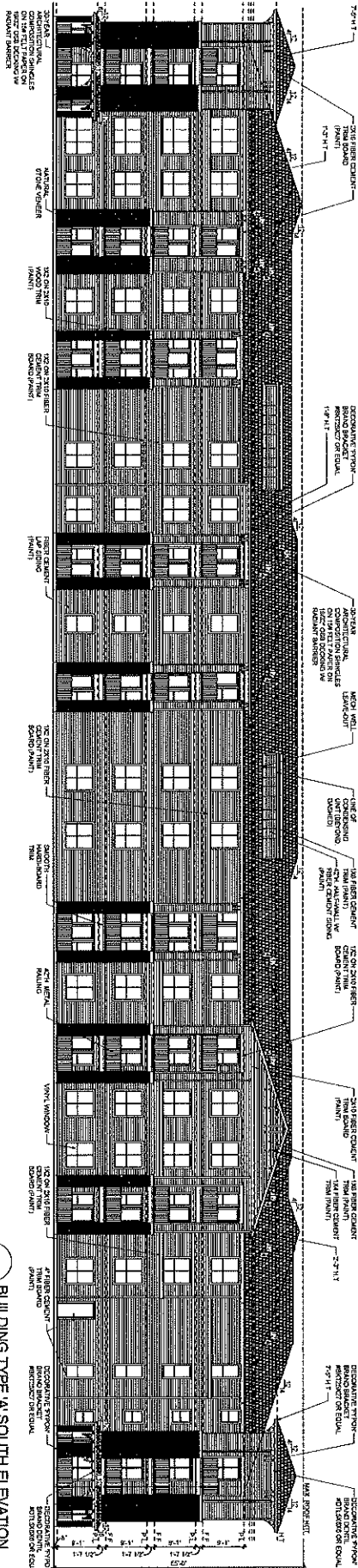
ASPENS SENIOR LIVING
RALEIGH, NC

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01 BUILDING TYPE 'A' SOUTH ELEVATION
SCALE: 3/32" = 1'-0"

ASPENS SENIOR LIVING RALEIGH, NC

ARCHITECT:
BRIAN RUMSEY
1255 W. 15TH STREET, SUITE 125
PLANO, TEXAS 75075
P: 972.398.6644
F: 972.312.8666



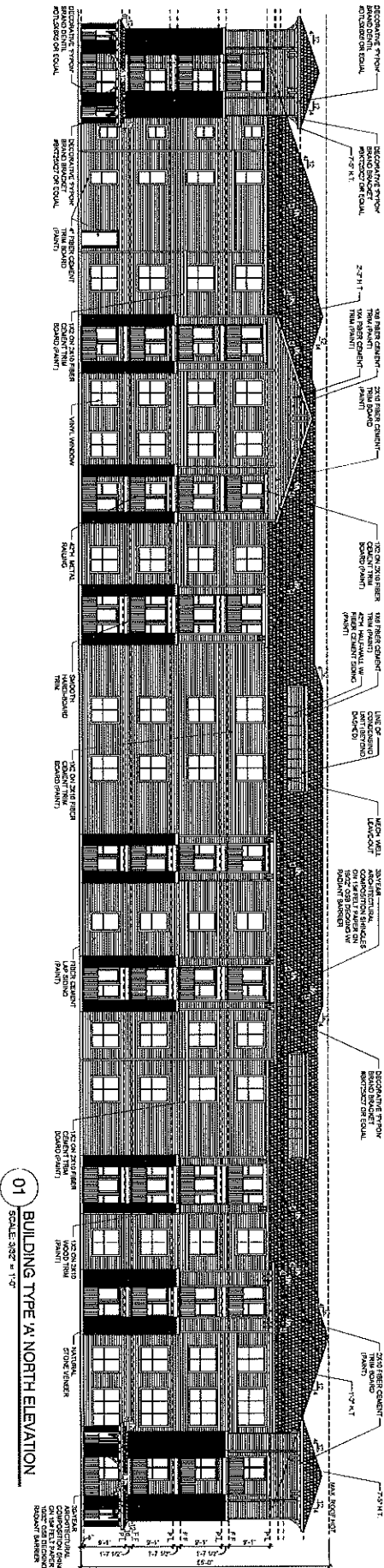
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ELEVATIONS

DATE: 11/11/16

ASPENS SENIOR LIVING
RALEIGH, NC

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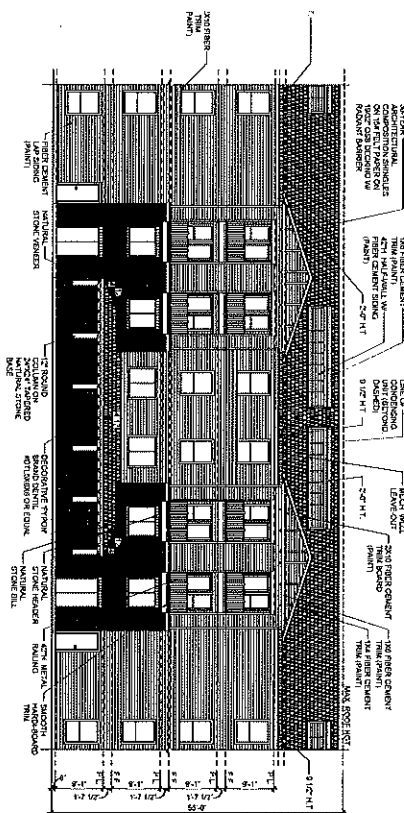
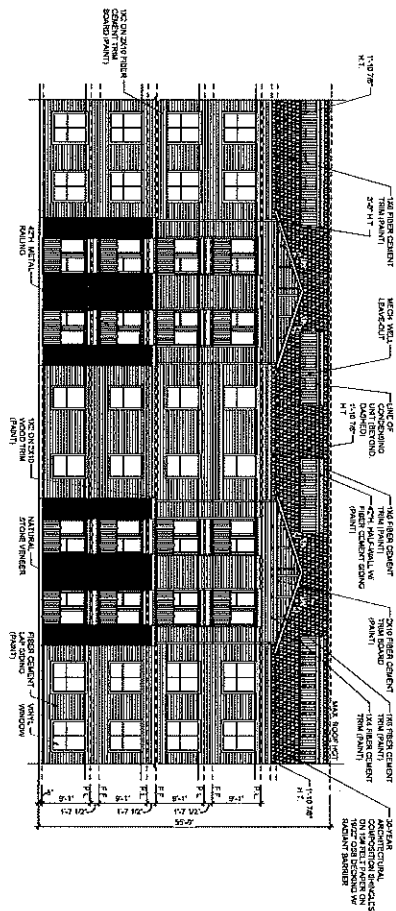
ASPENS SENIOR LIVING RALEIGH, NC

ARCHITECT:
BRIAN RUMSEY
1225 W. 15TH STREET, SUITE 125
PLANO, TEXAS 75075
P: 972.393.6644
F: 972.312.8666



DATE	XXXX/2016	
PROJECT NUMBER	16004	
REVISIONS		
NO.	DATE	

PROJECT NUMBER
A4.15
BLDG. 'A'
ELEVATIONS
COMPILED 7/2017



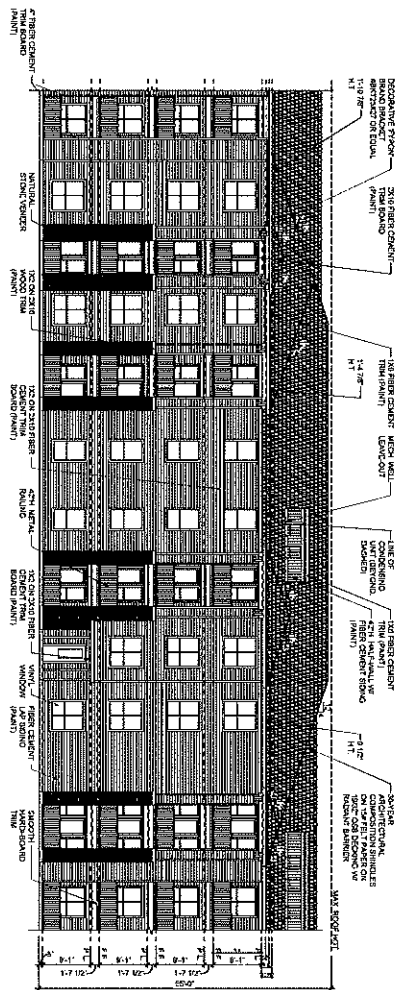
ASPENS SENIOR LIVING
RALEIGH, NC

ARCHITECT:
BRIAN RUMSEY
1255 W. 15TH STREET, SUITE 125
PLANO, TEXAS 75075
P: 972.398.6641
F: 972.312.8666

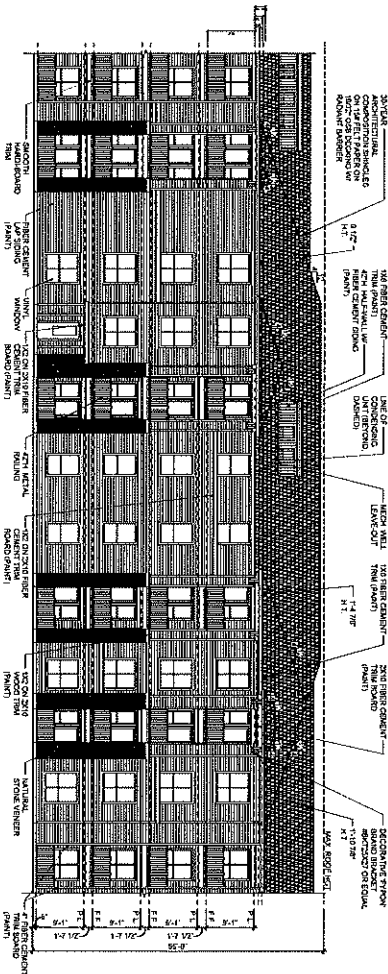


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01 BUILDING TYPE A NORTH COURTYARD ELEVATION
SCALE: 3/32" = 1'-0"



01 BUILDING TYPE A SOUTH COURTYARD ELEVATION
SCALE: 3/32" = 1'-0"

PRELIMINARY
DRAWINGS

Brian Rumsey
ARCHITECT

ARCHITECT:
BRIAN RUMSEY
1255 W. 15TH STREET, SUITE 125
PLANO, TEXAS 75075
P: 972.398.6644
F: 972.312.8666

ASPENS SENIOR LIVING
RALEIGH, NC

DATE: XX/XX/2016
PROJECT NUMBER: 18004

REVISIONS

SHEET NUMBER: A4.17
BLDG. A
ELEVATIONS
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FALLS OFFICE PARTNERS, LLC
1729212644
FRANK MOODY
PO BOX 926
Dunn, NC 28355

1729214636
Dunn Investments LLC
6065 Tryon Rd Ste A
Cary, NC 27518-0316

REID, BYRON L REID, ROBIN L
1729215374
1413 WHITTINGTON DR
RALEIGH NC 27614-8756

STRICKLAND, LYNN M JR
STRICKLAND, CASSANDRA R
1729216490
1417 WHITTINGTON DR
RALEIGH NC 27614-8756

DUNN ROAD ASSOCIATES
1729216967
266 W MILLBROOK RD STE A
RALEIGH NC 27609-4685

DUDLEY, CHRISTOPHER WAYNE
DUDLEY, ANGELA
1729217490
1421 WHITTINGTON DR
RALEIGH NC 27614-8756

CRAIG, JOHN BARRETT
CRAIG, ANITA GAIL
1729219308
1425 WHITTINGTON DR
RALEIGH NC 27614-8756

NAVILLE, BERNARD A
NAVILLE, LINDA M
1729219494
1605 OCTOBER RD
RALEIGH NC 27614-8638

DUNN ROAD ASSOCIATES
1729223012
266 W MILLBROOK RD STE A
RALEIGH NC 27609-4685

MITCHELL, LARRY M
MITCHELL, TERRI H
1729310317
1429 WHITTINGTON DR
RALEIGH NC 27614-8756

MAJORS, TIMOTHY R
MAJORS, CYNTHIA W
1729310409
1609 OCTOBER RD
RALEIGH NC 27614-8638

MORRISON, JAMES P
MORRISON, EILEEN M
1729310515
1613 OCTOBER RD
RALEIGH NC 27614-8638

ELLIS, DAVID C
ELLIS, JEANA
1729310610
1617 OCTOBER RD
RALEIGH NC 27614-8638

BUGGS, IRIS D
BUGGS, TRAY A
1729310636
1621 OCTOBER RD
RALEIGH NC 27614-8638

LUGO, FERNANDO &
OSEFINA CARRILLO LLANO
1729310753
1625 OCTOBER RD
RALEIGH NC 27614-8638

1729-31-0769
Hobbins, Laura M. & Joseph N III
1629 October Rd.
Raleigh, NC 27614-8638

BERRY, MARY BERRY, PAUL
1729310888
1633 OCTOBER RD
RALEIGH NC 27614-8638

TROSCLAIR, RUDOLPH
TROSCLAIR, AREME A
1729311952
1501 MICHELLE DR
RALEIGH NC 27614-7013

WHITE, KENNETH
WHITE, CINDY
1729320246
1609 OLDE CHIMNEY CT
RALEIGH NC 27614-8741

WILLIAMS, DERRICK A
RAVENELL, CEALIE M
1729321139
1605 OLDE CHIMNEY CT
RALEIGH NC 27614-8741

FONVILLE, JOHN T
1729324054
610 LITTLE ROSEWOOD LN
HENDERSON NC 27537-4702

AQUA NORTH CAROLINA, INC
1729117461
202 MACKENAN DR
CARY NC 27511-6447

CARLTON, MARK A
CARLTON, LAURA O
1729119413
11108 CLYMER CT
RALEIGH NC 27614-6737

DORSETT, JAMES D
DORSETT, NANCY
1729203949
1405 COOLMORE DR
RALEIGH NC 27614-9124

HAMMONS, SYLVIA G
1729210149
11104 CLYMER CT
RALEIGH NC 27614-6737

WU, JUSTIN Y
WU, KATHLEEN
1729216127
1412 WHITTINGTON DR
RALEIGH NC 27614-8755

1729217158
CHAUNCEY, LEAH S
CHAUNCEY, R FRED JR
1416 WHITTINGTON DR
RALEIGH NC 27614-8755

1729312828
Harper, Wendy C.
1505 Michelle Dr.
Raleigh, NC 27614-7013

1729311791
DUBIS, DAVID DUBIS, ELEN V
1506 MICHELLE DR
RALEIGH NC 27614-7012

1729322178
SARTORIUS, THOMAS A SARTORIUS, LINDA M
1600 OLDE CHIMNEY CT
RALEIGH NC 27614-8740

1729229358
OMAR, IMAD
1520 HIGH HOLLY LN
RALEIGH NC 27614-8742

1729228335
CHRISTOPHERSON, TOBY MICHAEL &
CATHARINE ROBINSON
1516 HIGH HOLLY LN
RALEIGH NC 27614-8742

1729227325
STEEN, ANNA
1512 HIGH HOLLY LN
RALEIGH NC 27614-8742

1729205912
FRY, BOB J TRUSTEES, JANICE R
1409 COOLMORE DR
RALEIGH NC 27614-9124

1729222300
Keenan, Thomas J. & Dana A. Figura
1505 Perryclear Ct
Raleigh NC27614-7782

1729223330
MORROW, JACQUELINE
1500 PERRYCLEAR CT
RALEIGH NC 27614-7782

1729226309
BUBAR, MURRY J LAING, JAMES A JR
1508 HIGH HOLLY LN
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1729224341
SELF, JONATHAN A.
1504 PERRYCLEAR CT
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